



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 91-281; FCC 17-76]

Calling Number Identification Service – Caller ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend its Caller ID rules to allow carriers to disclose blocked Caller ID information in the limited case of threatening calls as an aid to law enforcement investigations. Media and law enforcement reports indicate that the number of threatening calls targeting schools, religious organizations, and other entities appears to be increasing dramatically. In many cases, the perpetrators block the Caller ID information, making it difficult to trace the threatening calls. The Commission's current rules require that carriers not reveal blocked Caller ID information or use that information to allow the called party to contact the caller. Recognizing that threatening callers do not have a legitimate privacy interest in having blocked Caller ID protected from disclosure, the Commission seeks to amend its Caller ID rules to permit carriers to disclose blocked Caller ID information in the limited case of threatening calls as an aid to law enforcement investigations.

DATES: Comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, and reply comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by CC Docket No. 91-281 and/or FCC Number 17-76, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site: <http://apps.fcc.gov/ecfs/>. Filers should follow the instructions provided on the Web site for

submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CC Docket No. 91-281.

- **Mail:** Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Nellie Foosaner, Consumer Policy Division, Consumer and Governmental Affairs Bureau (CGB), at: (202) 418-2925, email: Nellie.Foosaner@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, document FCC 17-76, adopted on June 22, 2017, and released on June 22, 2017. The full text of document FCC 17-76 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. A copy of document FCC 17-76 and any subsequently filed documents in this matter may also be found by searching ECFS at: <http://apps.fcc.gov/ecfs/> (insert CC Docket No. 91-281 into the Proceeding block).

Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using ECFS. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

Pursuant to § 1.1200 of the Commission's rules, 47 CFR 1.1200, this matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to: fcc504@fcc.gov or call CGB at: (202) 418-0530 (voice), or (202) 418-0432 (TTY). Document FCC 17-76 can also be downloaded in Word or Portable Document Format (PDF) at: <https://www.fcc.gov/document/fcc-proposes-rules-aid-investigation-threatening-calls>.

INITIAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

Document FCC 17-76 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the Federal Register inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Pub. L. 104-13; 44 U.S.C. 3501-3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Pub. L. 107-198, 116 Stat. 729; 44 U.S.C. 3506(c)(4).

SYNOPSIS

1. In the document FCC 17-76, the Commission proposes to amend its Caller ID rules to enable called parties and/or law enforcement to obtain blocked Caller ID information in connection with

threatening calls. For purposes of document FCC 17-76, the Commission defines a “threatening call” as any call that includes a threat of serious and imminent unlawful action posing a substantial risk to property, life, safety, or health.

2. Based on reports of widespread and increasing numbers of threatening calls that have targeted schools, religious organizations and other entities, the Commission proposes amending § 64.1601 of its rules, which provides that “[n]o common carrier subscribing to or offering any service that delivers [the Calling Party Number (CPN)] may override the privacy indicator associated with an interstate call,” to ensure that all parties who receive threatening calls are not hindered by the Commission’s rules in gaining timely access to CPN information that may allow them to identify threatening callers. Amending the Commission’s Caller ID rules to permit threatened parties, law enforcement and security personnel of threatened entities to gain access to the CPN of threatening callers could promote public safety and provide administrative efficiencies over the current process, which necessitates addressing individual waiver requests on a case-by-case basis. Even when threatening calls prove to be a hoax, they can often result in substantial disruption and expenditure of public resources by law enforcement. The Commission therefore proposes to amend its rules to recognize an exemption from the privacy protections contained in § 64.1601(b) of its rules in the limited case of threatening calls. The Commission seeks additional comment on ways to facilitate the ability of law enforcement and security personnel to investigate and identify threatening callers while protecting the legitimate privacy interests of non-threatening callers. In that regard, the Commission seeks comment on how to define the term “security personnel” to ensure that only the appropriate personnel responsible for the safety of any threatened entity has access to the information they require to perform their duties.

3. Section 64.1601(b) of the Commission’s rules requires that carriers must act in accordance with the customer’s privacy request that CPN not be passed on interstate calls. The Commission has recognized, however, certain exemptions to this requirement. The Commission has concluded, for example, that to the extent CPN-based services are used to deliver emergency services, privacy requirements should not apply to delivery of CPN to a public agency’s emergency lines, a poison control

line, or in conjunction with 911 emergency services. In these instances, the Commission concluded that Caller ID blocking mechanisms could jeopardize emergency services and therefore pose a serious threat to the safety of life and property. The Commission believes that threatening calls present equally compelling circumstances in which the need to ensure public safety, in accordance with the Commission's fundamental statutory mission, outweighs the threatening caller's interest in maintaining the privacy of his or her CPN.

4. Specifically, the Commission proposes amending § 64.1601 of its rules to recognize an exemption to § 64.1601(b)'s of its rules prohibition on overriding a privacy indicator associated with an interstate call when such call contains a threat of a serious nature. For purposes of this context, the Commission proposes defining a "threatening call" as any call that includes a threat of serious and imminent unlawful action posing a substantial risk to property, life, safety, or health. The Commission seeks comment on this definition and on any alternatives. Accordingly, the Commission proposes adding an exemption in § 64.1601(d) of its rules to exclude threatening calls from the privacy protections afforded by § 64.1601(b) of its rules.

5. In this context, the Commission seeks comment on how evaluations should be made to determine whether a threat meets the proposed definition of a threatening call, including who should make that evaluation. Should the Commission require, for example, that otherwise restricted CPN be made available only after a law enforcement agency confirms that it constitutes a threat of a serious and imminent unlawful action posing a substantial risk to property, life, safety, or health? Would this approach provide sufficient privacy safeguards to ensure that blocked CPN is released only in those limited situations? Conversely, to what extent would involving law enforcement in this process hinder the ability of threatened parties to gain timely access to the CPN of threatening callers?

6. The Commission seeks comment on this proposal and any additional options that might aid law enforcement and threatened parties in obtaining the information they need to identify threatening callers. In addition, the Commission seeks comment on how to facilitate the provision of CPN to threatened entities in a manner that minimizes administrative burdens on carriers while ensuring that such

information is provided to the threatened party and law enforcement in a timely manner. How are carriers burdened today when law enforcement uses lawful processes to compel disclosure of call details? In particular, the Commission seeks comment on the potential burdens on small providers that may be asked to disclose information upon a report of a threatening call, including measures that could mitigate those burdens. The Commission recognizes that telecommunications systems utilized by threatened entities and relationships with their carriers may vary widely. The Commission therefore seeks the input of carriers on how best to facilitate the process of providing CPN information in a timely manner to parties that report a threatening call. Given the existing exemption for public agencies that deliver emergency services as noted above, the Commission also seeks comment on whether it should extend that exemption to non-public entities that provide emergency services such as private ambulance companies.

7. Privacy. In proposing this amendment to the Caller ID rules, the Commission endeavors to ensure that this exemption is not abused and that the legitimate privacy interests of non-threatening callers are not infringed, particularly when the calling party has a higher need for CPN blocking protections to mitigate the risk of personal injury, such as in the case of calls made from domestic violence agencies. When the Commission adopted the rule in 1994, it concluded based on an extensive record that “the calling public has an interest in exercising a measure of control over the dissemination of telephone numbers that must be reflected in federal policies governing caller ID services.” As a result, the Commission adopted a rule requiring carriers to offer per-call blocking of Caller ID and allowed carriers to continue offering per-line blocking as long as they also provided per-call unblocking. Because of this recognized privacy interest, the Commission seeks comment on whether it should require anyone reporting a threatening call for purposes of obtaining otherwise restricted CPN to do so in conjunction with a law enforcement agency, so as to provide some assurance that the called party is not attempting to circumvent the privacy obligations of the rule by reporting a false threat. Should access to restricted CPN be limited only to law enforcement authorities? Would the risk of abuse be further reduced by limiting application of this exemption only to non-residential entities such as schools, religious organizations, and other public and private business and governmental entities? Would excluding private individuals who

are not typically the target of mass phone threats limit the potential for abuse of this exemption? The Commission notes, for example, that petitions seeking waivers on the basis of a pattern of threatening calls, including most press reports, relate to threatening calls that target entities such as these rather than private individuals. Finally, how would a carrier's obligations under section 222 of the Communications Act of 1934 (the Act) be affected? Is CPN that a caller intends to block protected by section 222 of the Act, and would a rule that requires or allows carriers to divulge blocked CPN conflict with section 222 of the Act?

8. Are there other means to ensure that legitimate privacy protections are not infringed should the Commission exempt threatening calls from the privacy requirements of § 64.1601(b) of its rules? The Commission notes, for example, that CGB, in granting waivers of the Commission's rule, has imposed certain conditions and obligations on entities granted waivers of § 64.1601(b) of its rules in the past to ensure that restricted CPN information is disclosed only to authorized personnel for purposes of investigating threatening calls, and hence, any legitimate expectation of privacy by non-threatening callers is adequately protected. These conditions typically include: (1) the CPN on incoming restricted calls not be passed on to the line called; (2) any system used to record CPN be operated in a secure way, limiting access to designated telecommunications and security personnel; (3) telecommunications and security personnel may access restricted CPN data only when investigating phone calls of a threatening and serious nature, and shall document that access as part of the investigative report; (4) transmission of restricted CPN information to law enforcement agencies must occur only through secure communications; (5) CPN information must be destroyed in a secure manner after a reasonable retention period; and (6) any violation of these conditions must be reported promptly to the Commission. The Commission seeks comment on whether similar conditions should be imposed on any party that obtains restricted CPN pursuant to the proposed exemption. The Commission seeks comment on these and any other proposals to achieve the Commission's objective in assisting threatened parties and law enforcement officials in identifying threatening callers in a timely manner.

9. The Commission seeks comment on whether circumstances have changed since the Commission originally adopted § 64.1601 of its rules. At the time, the Commission rejected arguments that parts of the rule would infringe on callers' expectations of privacy and anonymity. This was in part because the rule would allow callers to choose to block passage of CPN by choosing either per-call or per-line blocking. Would this logic hold true if the Commission were to allow call recipients to demand that CPN be revealed by asserting that the call contained a threat? In concluding that compelling the transmission of CPN would not violate any privacy rights under the Fourth Amendment, the Commission reasoned that callers have no reasonable expectation of privacy in their phone numbers because those numbers are voluntarily exposed to the telephone company's equipment. Does this hold true today, and would it be true if callers intending to block CPN delivery could have it unblocked by a called party's assertion that a call contained a threat?

The JCC Temporary Waiver

10. Based on the large numbers of recent threats phoned in to the JCCs and the record compiled in this matter, the Commission confirms that good cause continues to exist to maintain the temporary waiver of § 64.1601(b) of its rules granted to JCCs and the carriers who serve them for disclosure of CPN associated with threatening calls to JCCs.

11. In the event the Commission amends its rules to recognize an exemption for threatening calls as proposed herein, this waiver, along with other similar prior waivers, will be encompassed within the protections afforded by that exemption. In the meantime, this temporary waiver ensures that JCCs are afforded certainty that they will continue to have the necessary protections from threatening calls.

INITIAL REGULATORY FLEXIBILITY ACT ANALYSIS

12. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in document FCC 17-76. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for

comments specified in the DATES section. The Commission will send a copy of document FCC 17-76, including the IRFA to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules

13. In recent years, media and law enforcement reports indicate that the number of threatening calls appears be increasing dramatically. In the past the Commission has addressed such situations on a case-by-case basis via a waiver process at the request of individual entities that report receiving threatening calls. In document FCC 17-76, the Commission takes steps to amend the Caller ID rules to ensure that law enforcement and threatened parties are not hindered in their ability to investigate and respond to threatening phone calls. The Commission recognizes the privacy interests of non-threatening callers that may have valid reasons to block their telephone numbers by limiting the proposal strictly to those situations that involve threatening calls of a serious and imminent nature while further limiting access to such restricted CPN information in the case of threatening calls only to those parties responsible for safety and security of the threatened party. The Commission proposes to amend the current process that necessitates addressing individual waiver requests on a case-by-case basis. The Commission proposes and seeks additional comment on ways to facilitate the ability of law enforcement and security personnel to investigate and identify callers while protecting the legitimate privacy interests of non-threatening callers.

14. Specifically, the Commission proposes amend § 64.1601(d)(4)'s of its rules current list of exemptions by adding a new section (iv) to read: (4) CPN delivery- "(iv) Is made in connection with a threatening call. Upon report of such a threatening call, the carrier will provide any CPN of the calling party to the called party and/or law enforcement for the purpose of identifying the responsible party." The Commission proposes defining a "threatening call" as any called that includes a threat of serious and imminent unlawful action posing a substantial risk to property, life, safety, or health. In addition, the Commission seeks comment on how to facilitate the provision of CPN to threatened entities in a manner that minimizes administrative burdens on carriers while ensuring that such information is provided to the threatened party and law enforcement in a timely manner.

15. For privacy purposes, the Commission seeks comment on whether it should require anyone reporting a threatening call for purpose of obtaining otherwise restricted CPN to do so in conjunction with a law enforcement agency to provide some assurance that the called party is not attempting to circumvent the privacy obligations of the rule by reporting a false threat. The Commission also inquiries into the possibility of excluding private individuals, who are not typically the target of mass phone threats, from this exemption in order to limit the potential for abuse. The Commission notes, for example, that CGB has imposed certain conditions and obligations on entities granted waivers of § 64.1601(b) of its rules in the past to ensure that restricted CPN information is disclosed only to authorized personnel for purposes of investigating threatening calls, and hence, any legitimate expectation of privacy by non-threatening callers is adequately protected. The Commission seeks comment on whether similar conditions should be imposed on any party that obtains restricted CPN pursuant to the proposed exemption.

Legal Basis

16. The proposed and anticipated rules are authorized under sections 1-4 and 201 of the Act, as amended, 47 U.S.C. 151-154, and 201.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

17. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. Under the Small Business Act, a “small business concern” is one that: 1) is independently owned and operated; 2) is not dominant in its field of operation; and 3) meets any additional criteria established by the SBA. Nationwide, there are a total of approximately 28.8 million small businesses, according to the SBA.

Wireline Carriers

18. Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and

infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over Internet protocol (VoIP) services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”

The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

19. Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a small business size standard specifically for local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of local exchange service are small businesses.

20. Incumbent Local Exchange Carriers (Incumbent LECs). Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses.

21. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments

providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and other local service providers are small entities.

22. The Commission has included small incumbent LECs in the RFA analysis. As noted above, a “small business” under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope. The Commission has therefore included small incumbent LECs in the RFA analysis, although it emphasizes that the RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

23. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that

there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that the majority of IXC's are small entities.

24. Other Toll Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small.

Wireless Carriers

25. Wireless Telecommunications Carriers (except Satellite). Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the

majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

26. Satellite Telecommunications Providers. The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” This category has a small business size standard of \$32.5 million or less in average annual receipts, under SBA rules. For this category, Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of under \$25 million. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities.

27. All Other Telecommunications. All Other Telecommunications comprises, inter alia, “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or VoIP services via client-supplied telecommunications connections are also included in this industry.” For this category, Census Bureau data for 2012 show that there were a total of 1,442 firms that operated for the entire year. Of this total, 1,400 had annual receipts below \$25 million per year. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities.

Resellers

28. Toll Resellers. The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

29. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

30. Prepaid Calling Card Providers. The SBA has developed a small business size standard for the

category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

31. As indicated above, document FCC 17-76 seeks comment on a proposed amendment to the rules to require carriers to make available, upon report of a threatening call from the called party, any CPN of the calling party to the called party and/or law enforcement for the purpose of identifying the responsible party. Until these requirements are defined in full, it is not possible to predict with certainty whether the costs of compliance will be proportionate between small and large providers. The Commission seeks to minimize the burden associated with reporting, recordkeeping, and other compliance requirements for the proposed rules, such as modifying software, developing procedures, and training staff.

32. Under the proposed rules, carriers will need to make the CPN of a calling party available to a threatened recipient of the call. They may need to work with law enforcement and the entity called to ensure there is a genuine threat in order to protect the privacy of the caller.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

33. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others):

(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

34. The Commission has proposed rules for carriers, upon report of a threatening call from the called party, to provide any CPN of the calling party to the called party and/or law enforcement for the purpose of identifying the responsible party. The Commission requested feedback from small businesses in document FCC 17-76, and seeks comment on ways to make the proposed rules less costly. The Commission asks how to facilitate the provision of CPN to threatened entities in a manner that minimizes the administrative burdens on carriers while ensuring that such information is provided to the threatened party and law enforcement in a timely manner. The Commission seeks the input of carriers on how to best facilitate the process of providing CPN information in a timely manner to parties that report a threatening call. To help carriers protect privacy interests, the Commission seeks comment on whether it should require anyone reporting a threatening call for purposes of obtaining otherwise restricted CPN to do so in conjunction with a law enforcement agency to provide some assurance that the called party is not attempting to circumvent the privacy obligations of the rule by reporting a false threat. The Commission also asks whether excluding private individuals would limit the potential for abuse. The Commission seeks comment on how to minimize the economic impact of its proposals, particularly to small businesses.

35. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to document FCC 17-76 and the IRFA, in reaching its final conclusions and

taking action in this proceeding.

Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule

36. None.

List of Subjects in 47 CFR Part 64

Claims, Communications common carriers, Computer technology, Credit, Foreign relations, Individuals with disabilities, Political candidates, Radio, Reporting and recordkeeping requirements,

Telecommunications, Telegraph, Telephone.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 225, 254(k), 403(b)(2)(B), (c), 715, Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

2. Amend § 64.1600 by adding paragraph (l) to read as follows:

§ 64.1600 Definitions.

* * * * *

(l) Threatening Call. The term “threatening call” means any call that includes a threat of serious and imminent unlawful action posing a substantial risk to property, life, safety, or health.

3. Amend § 64.1601 by revising paragraph (d)(4) (ii) through (iv) to read as follows:

§ Section 64.1601 Delivery requirements and privacy restrictions.

* * * * *

(d) * * *

(4) * * *

(ii) Is used on a public agency’s emergency telephone line or in conjunction with 911 emergency services, or on any entity’s emergency assistance poison control telephone line;

(iii) Is provided in connection with legally authorized call tracing or trapping procedures specifically requested by a law enforcement agency; or

(iv) Is made in connection with a threatening call. Upon report of such a threatening call, the carrier will provide any CPN of the calling party to the called party and/or law enforcement for the purpose of identifying the responsible party.

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